

toxic agents or environmental or wartime hazards to which U.S. service members may have been exposed during the Persian Gulf war.

The National Academy of Sciences would be required to identify those diagnosed and undiagnosed illnesses among Persian Gulf war veterans. In addition, it would be responsible for reviewing potential treatment for chronic undiagnosed illnesses. As it did under the Agent Orange legislation, the Academy would also be authorized to make recommendations for additional scientific studies regarding the exposure that Persian Gulf war veterans may have had to toxic agents or environmental or wartime hazards.

Based upon the assessments of the National Academy of Sciences and any other relevant scientific and medical information, the Secretary of Veterans Affairs would then determine whether a presumption of service connection is warranted for various diagnosed or undiagnosed illnesses. The Secretary would provide compensation when there is a positive association between the illness and exposure to one or more toxic agents or environmental or wartime hazards during the Persian Gulf war. A positive association is regarded as one where credible evidence for the association is equal to or outweighs credible evidence against the association. Like the Agent Orange Act, this legislation provides for ongoing Academy reviews and puts a mechanism in place whereby the Secretary may provide compensation for additional illnesses as the scientific evidence warrants.

The bill Senator ROCKEFELLER and I are introducing today also requires the VA to collaborate with the Pentagon to operate a computerized database for the collection, storage, and analysis of information on the diagnosed and undiagnosed illnesses suffered by Persian Gulf war veterans. I should point out that the database would also include information on the treatment veterans receive for chronic undiagnosed illnesses. The VA would be required to continuously compile and analyze the information in this database that is likely to determine the association between the diagnosed and undiagnosed illnesses suffered by veterans and their exposure to toxic agents or environmental or wartime hazards during the Persian Gulf war.

In June, the General Accounting Office issued a report stating that, "although efforts have been made to diagnose veterans' problems and care had been provided to many eligible veterans, neither DOD nor VA has systematically attempted to determine whether ill Gulf War veterans are any better or worse today than when they were first examined." The database we are proposing would correct that deficiency. It would permit VA and DOD to determine whether Persian Gulf war veterans are getting better over time and whether they are responding to the treatment they are receiving.

The bill we are introducing today also calls for enhanced outreach to those who served in the Persian Gulf war. Specifically, it would require the VA to consult with DOD and HHS to create an ongoing program to provide information to veterans and their families. For example, they would receive information pertaining to the possible health risks to Persian Gulf war veterans who were exposed to toxic agents or environmental or wartime hazards. In addition, veterans would receive valuable information on any services or benefits available to them.

Mr. President, as I mentioned previously, we have made great strides to determine the cause of illnesses suffered by Vietnam veterans and their children and agreed to provide them with just compensation. We must now enhance our efforts to help those who served our country during the Persian Gulf war. Passage of this legislation is essential to providing answers to the many questions we have about the causes of Persian Gulf war illnesses. More importantly, it will ensure that our veterans are receiving proper medical care and the compensation they have earned. I again thank Senator ROCKEFELLER for his leadership on this issue and hope my colleagues will support this important legislation.

SENATE RESOLUTION 140—RELATIVE TO INTERNATIONAL SHIPPING

Mr. HELMS (for himself, Mr. LOTT, Mr. FAIRCLOTH, Mr. BREAUX, Mr. HOLLINGS, Mr. BINGAMAN, Mr. BROWNBACK, and Mr. Inouye) submitted the following resolution; which was referred to the Committee on Commerce, Science, and Transportation.

S. RES. 140

Whereas restrictive and discriminatory Japanese port practices have been a significant source of international concern for many years, have increased the cost of transporting goods to and from Japan for American consumers, and all ocean carriers and their customers, and have restricted United States carriers' operations in Japan while Japanese carriers have not faced similar restrictions in the United States.

Whereas for many years the Federal Maritime Commission, and the United States Departments of State and Transportation, have investigated and monitored these practices and urged the Japanese Government to remedy the problems caused by these restrictions; and

Whereas recent actions by the Federal Maritime Commission and negotiations conducted by the Departments of State and Transportation with the Government of Japan have reportedly produced agreements which would, when implemented, reform the Japanese port practices and remedy these problems: Now, therefore, be it

Resolved, That the Senate express strong support for—

(1) the efforts of the President and executive branch to achieve removal of Japanese port restrictions, and

(2) vigilant, continued monitoring and enforcement by the Federal Maritime Commission of changes in port practices promised by the Japanese Government that will benefit international trade.

Mr. HELMS. Mr. President, I, Senator FAIRCLOTH, Senator LOTT, Senator BREAUX, Senator HOLLINGS, Senator BINGAMAN, Senator BROWNBACK, and Senator INOUE are submitting today a sense-of-the-Senate resolution which commends the administration for its actions in attempting to end the Japanese blockade of American ships who wish to use Japanese port facilities. We are also urging the administration to remain firm and stand behind the Federal Maritime Commission in these negotiations with the Government of Japan.

This issue is a no brainer. The Japanese are simply throwing up a blockade against American ships, who seek to dock at Japanese ports.

Mr. President, this protectionist stand has increased cost of shipping for the American consumer and all American ocean carriers and their customers. We simply will not tolerate that kind of treatment from Japan or any other trading partner.

The Federal Maritime Commission is to be commended for taking a tough line toward the Japanese port authorities. We encourage the administration to stand squarely behind the Commission's efforts to achieve fairness for American ships, especially because we allow the Japanese open access to our ports.

There is the Biblical saying of "Do unto others as you would have them do unto you." The Japanese version is the complete reverse of that.

We accommodate Japanese shipping and we should expect no less of them.

Mr. President, I urge the Senate to swiftly adopt this resolution.

ADDITIONAL COSPONSORS

S. 61

At the request of Mr. LOTT, the name of the Senator from New Mexico [Mr. BINGAMAN] was added as a cosponsor of S. 61, a bill to amend title 46, United States Code, to extend eligibility for veterans' burial benefits, funeral benefits, and related benefits for veterans of certain service in the United States merchant marine during World War II.

S. 412

At the request of Mr. LAUTENBERG, the name of the Senator from Hawaii [Mr. INOUE] was added as a cosponsor of S. 412, a bill to provide for a national standard to prohibit the operation of motor vehicles by intoxicated individuals.

S. 943

At the request of Mr. SPECTER, the name of the Senator from California [Mrs. FEINSTEIN] was added as a cosponsor of S. 943, a bill to amend title 49, United States Code, to clarify the application of the Act popularly known as the "Death on the High Seas Act" to aviation accidents.

S. 1096

At the request of Mr. GRASSLEY, the name of the Senator from Maine [Ms. COLLINS] was added as a cosponsor of S.

1096, a bill to restructure the Internal Revenue Service, and for other purposes.

S. 1251

At the request of Mr. D'AMATO, the names of the Senator from Alabama [Mr. SHELBY], the Senator from West Virginia [Mr. ROCKEFELLER], the Senator from South Dakota [Mr. JOHNSON], and the Senator from Mississippi [Mr. COCHRAN] were added as cosponsors of S. 1251, a bill to amend the Internal Revenue Code of 1986 to increase the amount of private activity bonds which may be issued in each State, and to index such amount for inflation.

S. 1252

At the request of Mr. D'AMATO, the names of the Senator from Alabama [Mr. SHELBY], the Senator from West Virginia [Mr. ROCKEFELLER], the Senator from South Dakota [Mr. JOHNSON], and the Senator from Mississippi [Mr. COCHRAN] were added as cosponsors of S. 1252, a bill to amend the Internal Revenue Code of 1986 to increase the amount of low-income housing credits which may be allocated in each State, and to index such amount for inflation.

S. 1297

At the request of Mr. COVERDELL, the name of the Senator from Colorado [Mr. ALLARD] was added as a cosponsor of S. 1297, a bill to redesignate Washington National Airport as "Ronald Reagan Washington National Airport."

S. 1299

At the request of Mr. HUTCHINSON, the names of the Senator from Ohio [Mr. DEWINE], the Senator from Missouri [Mr. BOND], the Senator from Alabama [Mr. SHELBY], the Senator from Alabama [Mr. SESSIONS], and the Senator from Texas [Mrs. HUTCHISON] were added as cosponsors of S. 1299, a bill to limit the authority of the Administrator of the Environmental Protection Agency and the Food and Drug Administration to ban metered-dose inhalers.

S. 1306

At the request of Mr. INHOFE, the name of the Senator from North Carolina [Mr. FAIRCLOTH] was added as a cosponsor of S. 1306, a bill to prohibit the conveyance of real property at Long Beach Naval Station, California, to China Ocean Shipping Company.

AMENDMENTS SUBMITTED

THE ECONOMIC GROWTH DIVIDEND PROTECTION ACT OF 1997

ABRAHAM AMENDMENT NO. 1524

(Ordered referred jointly to the Committee on the Budget and to the Committee on Governmental Affairs.)

Mr. ABRAHAM submitted an amendment intended to be proposed by him to the bill (S. 800) to create a tax cut reserve fund to protect revenues generated by economic growth; as follows:

On page 2, strike lines 6 through 13 and insert the following:

"(1) ESTIMATE.—OMB shall, for any amount by which revenues for a budget year and any outyears through fiscal year 2002 exceed the revenue target absent growth, estimate the excess (less any unexpected excess receipts (including attributable interest) of the Federal Old-Age and Survivors Insurance and the Federal Disability Insurance Trust Funds, the Federal Hospital Insurance Trust Fund established by section 1817 of the Social Security Act, and the Highway Trust Fund) and include such estimate as a separate entry in the report prepared pursuant to subsection (d) at the same time as the OMB sequestration preview report is issued.

On page 3, strike lines 18 and 19 and insert the following: "be considered to be in order for purposes of the Congressional Budget Act of 1974."

THE PRODUCT LIABILITY REFORM ACT OF 1997 BIOMATERIALS ACCESS ASSURANCE ACT OF 1997

ROCKEFELLER AMENDMENT NO. 1525

(Ordered to lie on the table.)

Mr. ROCKEFELLER submitted an amendment intended to be proposed by him to the bill (S. 648) to establish legal standards and procedures for product liability litigation, and for other purposes; as follows:

Strike all after the enacting clause, and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Product Liability Reform Act of 1997".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Purposes.

TITLE I—PRODUCT LIABILITY REFORM

Sec. 101. Definitions.

Sec. 102. Applicability; preemption.

Sec. 103. Liability rules applicable to product sellers, renters, and lessors.

Sec. 104. Defense based on claimant's use of alcohol or drugs.

Sec. 105. Misuse or alteration.

Sec. 106. Statute of limitations.

Sec. 107. Statute of repose for durable goods used in a workplace.

Sec. 108. Transitional provision relating to extension of period for bringing certain actions.

Sec. 109. Alternative dispute resolution procedures.

Sec. 110. Offers of judgment.

Sec. 111. Uniform standards for award of punitive damages.

Sec. 112. Liability for certain claims relating to death.

Sec. 113. Workers' compensation subrogation.

TITLE II—BIOMATERIALS ACCESS ASSURANCE

[TO BE SUPPLIED]

TITLE III—LIMITATIONS ON APPLICABILITY; EFFECTIVE DATE

Sec. 301. Federal cause of action precluded.

Sec. 302. Effective date.

SEC. 2. PURPOSES.

Based upon the powers contained in clause 3 of section 8 of article I of the United States Constitution, the purposes of this Act are to promote the free flow of goods and services and to lessen burdens on interstate commerce by—

(1) establishing certain uniform legal principles of product liability that provide a fair

balance among the interests of product users, manufacturers, and product sellers;

(2) providing for reasonable standards concerning, and limits on, punitive damages over and above the actual damages suffered by a claimant;

(3) ensuring the fair allocation of liability in product liability actions;

(4) reducing the unacceptable costs and delays in product liability actions caused by excessive litigation that harm both plaintiffs and defendants;

(5) establishing greater fairness, rationality, and predictability in product liability actions; and

(6) providing fair and expeditious judicial procedures that are necessary to complement and effectuate the legal principles established by this Act.

TITLE I—PRODUCT LIABILITY REFORM

SEC. 101. DEFINITIONS.

In this title:

(1) ALCOHOLIC BEVERAGE.—The term "alcoholic beverage" includes any beverage in liquid form that contains not less than 1/2 of 1 percent of alcohol by volume and is intended for human consumption.

(2) CLAIMANT.—The term "claimant" means any person who brings an action covered by this title and any person on whose behalf such an action is brought. If such an action is brought through or on behalf of an estate, the term includes the claimant's decedent. If such an action is brought through or on behalf of a minor or incompetent, the term includes the claimant's legal guardian.

(3) CLAIMANT'S BENEFITS.—The term "claimant's benefits" means the amount paid to an employee as workers' compensation benefits.

(4) CLEAR AND CONVINCING EVIDENCE.—The term "clear and convincing evidence" is that measure or degree of proof that will produce in the mind of the trier of fact a firm belief or conviction as to the truth of the allegations sought to be established. The level of proof required to satisfy that standard is more than that required under a preponderance of the evidence, but less than that required for proof beyond a reasonable doubt.

(5) COMMERCIAL LOSS.—The term "commercial loss" means—

(A) any loss or damage solely to a product itself;

(B) loss relating to a dispute over the value of a product; or

(C) consequential economic loss, the recovery of which is governed by the Uniform Commercial Code or analogous State commercial or contract law.

(6) COMPENSATORY DAMAGES.—The term "compensatory damages" means damages awarded for economic and noneconomic loss.

(7) DRAM-SHOP.—The term "dram-shop" means a drinking establishment where alcoholic beverages are sold to be consumed on the premises.

(8) DURABLE GOOD.—The term "durable good" means any product, or any component of any such product, which—

(A)(i) has a normal life expectancy of 3 or more years; or

(ii) is of a character subject to allowance for depreciation under the Internal Revenue Code of 1986; and

(B) is—

(i) used in a trade or business;

(ii) held for the production of income; or

(iii) sold or donated to a governmental or private entity for the production of goods, training, demonstration, or any other similar purpose.

(9) ECONOMIC LOSS.—The term "economic loss" means any pecuniary loss resulting from harm (including the loss of earnings or other benefits related to employment, medical expense loss, replacement services loss,